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District Court

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For The Northern Mariana Islands  
By \_\_\_\_\_  
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MICRONESIA WOODCRAFT ENT. INC., et al.

UNITED STATES DISTRICT COURT

FOR THE

DISTRICT OF THE NORTHERN MARIANA ISLANDS

SAIPAN HANDICRAFT,

Plaintiff,

v.

MICRONESIA WOODCRAFT ENT.,  
INC., TIRZO J. ADRIATICO,  
individually and as President of  
Micronesia Woodcraft Ent., Inc.,  
A COMPANY, INC. dba Palm Tree  
Gift Shop, ALINA'S ARAM CO., LTD.  
dba Match, ARENAS ENTERPRISES,  
INC. dba Esther Fashion,  
ANTOINETTE F. CASTRO, CHOON  
HEE LEE, HYUN JIN KIM,  
COMMONWEALTH PACIFIC INTL.,  
INC. dba Crystal Palace Gift shop, TA  
BUN KUY, FULL HOUSE, INC. dba  
Micro Beach Hotel and CBA Store,  
COSTA WORLD CORPORATIN dba  
Color Rich, DORA CO., LTD. dba  
Block's, SHI.N.KA. FUJI MASSAGE  
PARLOR, GREAT SUNSHINE  
CORPORATION dba Haney, J&T  
ENTERPRISES, INC. dba 7 Star Gift  
Shop, KAN PACIFIC SAIPAN, LTD.  
dba Mariana Resort & Spa Gift Shop,  
KENKOZ CORP., KUMANOMI  
ISLAND CO., LTD. LK  
CORPORATION dba Rota Handicraft,  
LEE YOUNG JO, LEE, BYUNG  
DEUK, PACIFIC INTL.  
CORPORATION dba Marianas

CIVIL ACTION NO. 05-0040

**ANSWER OF DEFENDANTS  
MICRONESIA WOODCRAFT  
ENTERPRISES, INC. AND TIRSO  
J. ADRIATICO TO PLAINTIFF'S  
AMENDED COMPLAINT**

Woodcraft, PACIFIC SUN LINES,  
INC. dba Beach Gal and Cinderella,  
FRANCISCO S. PANGELINAN,  
IGARASHI SHO o TEN, INC., QJ CO.,  
LTD. dba Beach Gift Shop, RYU  
CORPORATION dba Ryu Gu Zyo Gift  
Shop, TOTAL I CORPORATION,  
TOWN HOUSE, INC. dba Townhouse  
Dept. Store, XUAN BO LU, YUN'S  
CORPORATION dba Payless  
Supermarket and JOHN DOES 1-30,

Defendants.

Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
Adriatico, by and through their counsel, hereby set forth its answers to  
Plaintiff's complaint as follows:

1. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
Adriatico admit the allegations contained in paragraph 1.

2. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
Adriatico admit the allegations contained in paragraph 2.

3. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
Adriatico admit the allegations contained in paragraph 3.

4. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
Adriatico admit the allegations contained in paragraph 4

5. Defendants Micronesia Woodcraft Enterprises, Inc. and  
Tirso J. Adriatico admit in part the allegations in paragraph 5 that  
Micronesia Woodcraft Enterprises, Inc. is a CNMI corporation and that its  
principal place of business is in San Vicente, Saipan with additional  
operations in Rota, Commonwealth of the Northern Mariana Islands.  
However, all remaining allegations not specifically admitted are denied.

1           6. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
2 Adriatico admit the allegations in paragraph 6.

3           7. Defendants Micronesia Woodcraft Enterprises, Inc. and  
4 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
5 of the allegations contained in paragraph 7 and therefore deny the  
6 allegations.  
7

8           8. Defendants Micronesia Woodcraft Enterprises, Inc. and  
9 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
10 of the allegations contained in paragraph 8 and therefore deny the  
11 allegations.  
12

13           9. Defendants Micronesia Woodcraft Enterprises, Inc. and  
14 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
15 of the allegations contained in paragraph 9 and therefore deny the  
16 allegations.  
17

18           10. Defendants Micronesia Woodcraft Enterprises, Inc. and  
19 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
20 of the allegations contained in paragraph 10 and therefore deny the  
21 allegations.  
22

23           11. Defendants Micronesia Woodcraft Enterprises, Inc. and  
24 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
25 of the allegations contained in paragraph 11 and therefore deny the  
26 allegations.  
27

28           12. Defendants Micronesia Woodcraft Enterprises, Inc. and  
Tirso J. Adriatico lack sufficient information to form a belief as to the truth

1 of the allegations contained in paragraph 12 and therefore deny the  
2 allegations.

3 13. Defendants Micronesia Woodcraft Enterprises, Inc. and  
4 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
5 of the allegations contained in paragraph 13 and therefore deny the  
6 allegations.  
7

8 14. Defendants Micronesia Woodcraft Enterprises, Inc. and  
9 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
10 of the allegations contained in paragraph 14 and therefore deny the  
11 allegations.  
12

13 15. Defendants Micronesia Woodcraft Enterprises, Inc. and  
14 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
15 of the allegations contained in paragraph 15 and therefore deny the  
16 allegations.  
17

18 16. Defendants Micronesia Woodcraft Enterprises, Inc. and  
19 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
20 of the allegations contained in paragraph 16 and therefore deny the  
21 allegations.  
22

23 17. Defendants Micronesia Woodcraft Enterprises, Inc. and  
24 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
25 of the allegations contained in paragraph 17 and therefore deny the  
26 allegations.  
27

28 18. Defendants Micronesia Woodcraft Enterprises, Inc. and  
Tirso J. Adriatico lack sufficient information to form a belief as to the truth

1 of the allegations contained in paragraph 18 and therefore deny the  
2 allegations.

3 19. Defendants Micronesia Woodcraft Enterprises, Inc. and  
4 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
5 of the allegations contained in paragraph 19 and therefore deny the  
6 allegations.  
7

8 20. Defendants Micronesia Woodcraft Enterprises, Inc. and  
9 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
10 of the allegations contained in paragraph 20 and therefore deny the  
11 allegations.  
12

13 21. Defendants Micronesia Woodcraft Enterprises, Inc. and  
14 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
15 of the allegations contained in paragraph 21 and therefore deny the  
16 allegations.  
17

18 22. Defendants Micronesia Woodcraft Enterprises, Inc. and  
19 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
20 of the allegations contained in paragraph 22 and therefore deny the  
21 allegations.  
22

23 23. Defendants Micronesia Woodcraft Enterprises, Inc. and  
24 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
25 of the allegations contained in paragraph 23 and therefore deny the  
26 allegations.  
27

28 24. Defendants Micronesia Woodcraft Enterprises, Inc. and  
Tirso J. Adriatico lack sufficient information to form a belief as to the truth

1 of the allegations contained in paragraph 24 and therefore deny the  
2 allegations.

3 25. Defendants Micronesia Woodcraft Enterprises, Inc. and  
4 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
5 of the allegations contained in paragraph 25 and therefore deny the  
6 allegations.  
7

8 26. Defendants Micronesia Woodcraft Enterprises, Inc. and  
9 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
10 of the allegations contained in paragraph 26 and therefore deny the  
11 allegations.  
12

13 27. Defendants Micronesia Woodcraft Enterprises, Inc. and  
14 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
15 of the allegations contained in paragraph 27 and therefore deny the  
16 allegations.  
17

18 28. Defendants Micronesia Woodcraft Enterprises, Inc. and  
19 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
20 of the allegations contained in paragraph 28 and therefore deny the  
21 allegations.  
22

23 29. Defendants Micronesia Woodcraft Enterprises, Inc. and  
24 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
25 of the allegations contained in paragraph 29 and therefore deny the  
26 allegations.  
27

28 30. Defendants Micronesia Woodcraft Enterprises, Inc. and  
Tirso J. Adriatico lack sufficient information to form a belief as to the truth

1 of the allegations contained in paragraph 30 and therefore deny the  
2 allegations.

3 31. Defendants Micronesia Woodcraft Enterprises, Inc. and  
4 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
5 of the allegations contained in paragraph 31 and therefore deny the  
6 allegations.  
7

8 32. Defendants Micronesia Woodcraft Enterprises, Inc. and  
9 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
10 of the allegations contained in paragraph 32 and therefore deny the  
11 allegations.  
12

13 33. Defendants Micronesia Woodcraft Enterprises, Inc. and  
14 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
15 of the allegations contained in paragraph 33 and therefore deny the  
16 allegations.  
17

18 34. Defendants Micronesia Woodcraft Enterprises, Inc. and  
19 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
20 of the allegations contained in paragraph 34 and therefore deny the  
21 allegations.  
22

23 35. Defendants Micronesia Woodcraft Enterprises, Inc. and  
24 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
25 of the allegations contained in paragraph 35 and therefore deny the  
26 allegations.  
27

28 36. Defendants Micronesia Woodcraft Enterprises, Inc. and  
Tirso J. Adriatico lack sufficient information to form a belief as to the truth



1 of the allegations contained in paragraph 36 and therefore deny the  
2 allegations.

3 37. Defendants Micronesia Woodcraft Enterprises, Inc. and  
4 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
5 of the allegations contained in paragraph 37 and therefore deny the  
6 allegations.  
7

8 38. Defendants Micronesia Woodcraft Enterprises, Inc. and  
9 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
10 of the allegations contained in paragraph 38 and therefore deny the  
11 allegations.  
12

13 39. Defendants Micronesia Woodcraft Enterprises, Inc. and  
14 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
15 of the allegations contained in paragraph 39 and therefore deny the  
16 allegations.  
17

18 40. Defendants Micronesia Woodcraft Enterprises, Inc. and  
19 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
20 of the allegations contained in paragraph 40 and therefore deny the  
21 allegations.  
22

23 41. Defendants Micronesia Woodcraft Enterprises, Inc. and  
24 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
25 of the allegations contained in paragraph 41 and therefore deny the  
26 allegations.  
27

28 42. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
Adriatico admit the allegations contained in paragraph 42.



1           43. Defendants Micronesia Woodcraft Enterprises, Inc. and  
2 Tirso J. Adriatico admit in part the allegations contained in paragraph 43  
3 that Defendant Tirso J. Adriatico opened a business named Micronesia  
4 Woordcraft Enterprises. Defendants lack sufficient knowledge to form a  
5 belief as to the truth of the allegations that Plaintiff changed his fictional  
6 name because of any actions by Defendant Tirso J. Adriatico ad therefore  
7 deny the allegations. Defendants deny all the remaining allegations in the  
8 paragraph that are not specifically admitted herein.  
9

10           44. Defendants Micronesia Woodcraft Enterprises, Inc. and  
11 Tirso J. Adriatico admit in part the allegations contained in paragraph 44  
12 that Plaintiff has identified his hand-crafted dolls with the name “BoJoBo  
13 Wishing dolls” and “Legend of the BoJoBo Wishing Dolls”. Defendants deny  
14 the allegations that the name “BoJoBo Wishing Dolls” and “Legend of the  
15 BoJoBo Wishing Dolls” are a trademark.  
16

17           45. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
18 Adriatico lack sufficient information to form a belief as to the truth of the  
19 allegations in paragraph 45 whether Plaintiff’s dolls have been sold in  
20 interstate commerce or whether they were sold in Guam or Japan and  
21 therefore deny the allegations. Additionally, Defendants lack sufficient  
22 information to form a belief as to the truth of the allegations that Plaintiffs  
23 dolls are widely sold to the public for their “high quality, beauty, and luck”,  
24 and therefore the deny the allegations. Defendants further deny that  
25 Plaintiffs have any trademark rights.  
26  
27  
28

1           46. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
2 Adriatico lack sufficient information to form a belief as to the truth of the  
3 allegations in paragraph 46, therefore deny the allegations.

4           47. Defendants Micronesia Woodcraft Enterprises, Inc. and  
5 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
6 of the allegations contained in paragraph 47 and therefore deny the  
7 allegations.  
8

9           48. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
10 Adriatico admit the allegations in paragraph 48.

11           49. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
12 Adriatico admit in part the allegations in paragraph 49 that the dolls were  
13 the brainchild of Dr. William Vitarelli. However, Defendants lack sufficient  
14 information to form a belief as to the truth of the remaining allegations in  
15 paragraph 49 and therefore deny the allegations.  
16

17           50. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
18 Adriatico admit the allegations in paragraph 50.

19           51. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
20 Adriatico admit the allegations in paragraph 51.

21           52. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
22 Adriatico admit the allegations in paragraph 52.

23           53. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
24 Adriatico admit the allegations in paragraph 53.

25           54. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
26 Adriatico admit in part the allegations in paragraph 54 that Manuel Kisa  
27  
28

1 stopped producing the dolls. Defendants lack sufficient information to form a  
2 belief as to the truth of the remaining allegations in paragraph 54 and  
3 therefore deny the allegations.

4 55. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
5 Adriatico admit the allegations in paragraph 55.  
6

7 56. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
8 Adriatico admit in part the allegations in paragraph 56 that Gus Camacho  
9 stopped producing the dolls. Defendants lack sufficient information to form a  
10 belief as to the truth of the remaining allegations in paragraph 56 and  
11 therefore deny the allegations.

12 57. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
13 Adriatico admit the allegations in paragraph 57.  
14

15 58. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
16 Adriatico admit in part the allegations in paragraph 58 that after leaving the  
17 employment of Gus Camacho, Capati began making the dolls. Defendants  
18 lack sufficient information to form a belief as to the truth of the remaining  
19 allegations in paragraph 58 and therefore deny the allegations.  
20

21 59. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
22 Adriatico admit in part the allegations in paragraph 59 that the wishing dolls  
23 were reduces and that smaller bayogo were used to form the bodies of the  
24 dolls. Defendants lack sufficient information to form a belief as to the truth  
25 of the remaining allegations in paragraph 59 and therefore deny the  
26 allegations.  
27  
28

1           60. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
2 Adriatico lack sufficient information to form a belief as to the truth of the  
3 allegations in paragraph 60 regarding the Plaintiff's use of the name and  
4 legend of "BoJoBo Wishing Dolls" and therefore deny the allegations.  
5 Additionally, Defendants deny that Plaintiff ever developed a protectible  
6 trademark nor that Plaintiff ever acquired a protectible trade dress.  
7

8           61. Defendants Micronesia Woodcraft Enterprises, Inc. and  
9 Tirso J. Adriatico admit in part the allegations in paragraph 61 that from  
10 1984 forward, Plaintiff produces, marketed and sold dolls using the term  
11 "BoJoBo Wishing Dolls" and the "Legend of the BoJoBo Wishing Dolls"  
12 However, Defendants deny the remaining allegations in paragraph 61..  
13

14           62. Defendants Micronesia Woodcraft Enterprises, Inc. and  
15 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
16 of the allegations contained in paragraph 62 and therefore deny the  
17 allegations.  
18

19           63. Defendants Micronesia Woodcraft Enterprises, Inc. and  
20 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
21 of the allegations contained in paragraph 63 and therefore deny the  
22 allegations.  
23

24           64. Defendants Micronesia Woodcraft Enterprises, Inc. and  
25 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
26 of the allegations contained in paragraph 64 and therefore deny the  
27 allegations.  
28

1           65. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
2 Adriatico admit in part the allegations in paragraph 65 that Plaintiff has  
3 applied for registration. However, Defendants deny that Plaintiffs have a  
4 protectible trademark.  
5

6           66. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
7 Adriatico admit in part the allegations in paragraph 66 that Plaintiffs have  
8 applied for registration. However, Defendants deny that Plaintiffs have a  
9 protectible trademark.  
10

11           67. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
12 Adriatico admit in part the allegations in paragraph 67 that Plaintiffs have  
13 applied for registration of trade dress. However, Defendants deny that  
14 Plaintiff have a protectible trade dress.  
15

16           68. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
17 Adriatico admit in part the allegations in paragraph 68 that Plaintiff has  
18 applied for registration of trade dress. However, Defendants deny that  
19 Plaintiffs have a protectible trade dress.  
20

21           69. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
22 Adriatico admit in part the allegations in paragraph 69 that Plaintiff has  
23 applied for registration of trade dress. However, Defendants deny that  
24 Plaintiffs have a protectible trade dress.  
25

26           70. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
27 Adriatico admit in part the allegations in paragraph 70 that Plaintiff has  
28 applied for registration of trade dress. However, Defendants deny that  
Plaintiffs have a protectible trade dress.

1           71. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
2 Adriatico admit in part the allegations in paragraph 71 that Plaintiff has  
3 applied for registration of trade dress. However, Defendants deny that  
4 Plaintiffs have a protectible trade dress.  
5

6           72. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
7 Adriatico admit in part the allegations in paragraph 72 that Plaintiff has  
8 applied for registration of trade dress. However, Defendants deny that  
9 Plaintiffs have a protectible trade dress.  
10

11           73. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
12 Adriatico deny the allegations contained in paragraph 73.  
13

14           74. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
15 Adriatico deny the allegations contained in paragraph 74.  
16

17           75. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
18 Adriatico deny the allegations contained in paragraph 75.  
19

20           76. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
21 Adriatico admit the allegations contained in paragraph 76.  
22

23           77. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
24 Adriatico admit the allegations contained in paragraph 77.  
25

26           78. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
27 Adriatico admit the allegations contained in paragraph 78.  
28

          79. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
Adriatico deny the allegations contained in paragraph 79.

          80. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
Adriatico deny the allegations contained in paragraph 80.

1           81. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
2           Adriatico deny the allegations contained in paragraph 81.

3           82. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
4           Adriatico admit in part the allegations in paragraph 82 that he was employed  
5           by Plaintiff from 1992 to 1993. However, Defendants deny all the remaining  
6           allegations specifically admitted herein.

7           83. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
8           Adriatico deny the allegations contained in paragraph 83.

9           84. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
10          Adriatico deny the allegations contained in paragraph 84.

11          85. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
12          Adriatico admit in part the allegations in paragraph 85 that they began  
13          producing dolls without hair, a mouth, or a hat and that the dolls did not  
14          have an infringed label. However, Defendants deny all the remaining  
15          allegations specifically admitted herein.

16          86. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
17          Adriatico deny the allegations contained in paragraph 86.

18          87. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
19          Adriatico admit in part that Defendants manufacture dolls resembling  
20          Plaintiff's. Defendants deny that any resemblance infringes upon a  
21          protectible trade dress.

22          88. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
23          Adriatico deny the allegations contained in paragraph 88.



1           89. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
2 Adriatico admit most of the allegations in paragraph 89. However,  
3 Defendants deny that any infringement of protectible trademark or trade  
4 dress has occurred.

5           90. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
6 Adriatico deny the allegations contained in paragraph 90.

7           91. Defendants Micronesia Woodcraft Enterprises, Inc. and  
8 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
9 of the allegations contained in paragraph 91 and therefore deny the  
10 allegations  
11

12           92. Defendants Micronesia Woodcraft Enterprises, Inc. and  
13 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
14 of the allegations contained in paragraph 92 and therefore deny the  
15 allegations  
16

17           93. Defendants Micronesia Woodcraft Enterprises, Inc. and  
18 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
19 of the allegations contained in paragraph 93 and therefore deny the  
20 allegations  
21

22           94. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
23 Adriatico deny the allegations contained in paragraph 94.

24           95. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
25 Adriatico deny the allegations contained in paragraph 95.

26           96. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
27 Adriatico deny the allegations contained in paragraph 96.  
28

1           97. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
2 Adriatico deny the allegations contained in paragraph 97.

3           98. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
4 Adriatico reallege answers to paragraphs 1-97.

5           99. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
6 Adriatico deny the allegations contained in paragraph 99.

7           100. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
8 Adriatico deny the allegations contained in paragraph 100.

9           101. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
10 Adriatico deny the allegations contained in paragraph 101.

11           102. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
12 Adriatico deny the allegations contained in paragraph 102.

13           103. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
14 Adriatico deny the allegations contained in paragraph 103.

15           104. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
16 Adriatico reallege answers to paragraphs 1-103.

17           105. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
18 Adriatico deny the allegations contained in paragraph 105.

19           106. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
20 Adriatico deny the allegations contained in paragraph 106.

21           107. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
22 Adriatico deny the allegations contained in paragraph 107.

23           108. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
24 Adriatico reallege answers to paragraphs 1-107.

1           109. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
2 Adriatico deny the allegations contained in paragraph 109.

3           110. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
4 Adriatico deny the allegations contained in paragraph 110.

5           111. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
6 Adriatico deny the allegations contained in paragraph 111.

7           112. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
8 Adriatico reallege answers to paragraphs 1-111.

9           113. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
10 Adriatico deny the allegations contained in paragraph 113.

11           114. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
12 Adriatico deny the allegations contained in paragraph 114.

13           115. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
14 Adriatico deny the allegations contained in paragraph 115.

15           116. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
16 Adriatico reallege answers to paragraphs 1-115.

17           117. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
18 Adriatico deny the allegations contained in paragraph 117.

19           118. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
20 Adriatico deny the allegations contained in paragraph 118.

21           119. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
22 Adriatico deny the allegations contained in paragraph 119.

23           120. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
24 Adriatico deny the allegations contained in paragraph 120.

1           121. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
2 Adriatico reallege answers to paragraphs 1-120.

3           122. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
4 Adriatico deny the allegations contained in paragraph 122.

5           123. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
6 Adriatico deny the allegations contained in paragraph 123

7           124. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
8 Adriatico deny the allegations contained in paragraph 124.

9           125. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
10 Adriatico reallege answers to paragraphs 1-124.

11           126. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
12 Adriatico admit the allegations contained in paragraph 126.

13           127. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
14 Adriatico deny the allegations contained in paragraph 127.

15           128. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
16 Adriatico deny the allegations contained in paragraph 128.

17           129. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
18 Adriatico Micronesia Woodcraft Enterprises, Inc. and Tirso J. Adriatico lack  
19 sufficient information to form a belief as to the truth of the allegations  
20 contained in paragraph 129 and therefore deny the allegations.

21           130. Defendants Micronesia Woodcraft Enterprises, Inc. and  
22 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
23 of the allegations contained in paragraph 130 and therefore deny the  
24 allegations.

1           131. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
2 Adriatico deny the allegations contained in paragraph 131.

3           132. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
4 Adriatico reallege answers to paragraphs 1- 131

5           133. Defendants Micronesia Woodcraft Enterprises, Inc. and  
6 Tirso J. Adriatico admit in part the allegations contained in paragraph 133.  
7 However, Defendants lack sufficient information to form a belief as to the  
8 truth of the allegations contained in paragraph 133.

9           134. Defendants Micronesia Woodcraft Enterprises, Inc. and  
10 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
11 of the allegations contained in paragraph 134 and therefore deny the  
12 allegations.

13           135. Defendants Micronesia Woodcraft Enterprises, Inc. and  
14 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
15 of the allegations contained in paragraph 135 and therefore deny the  
16 allegations.

17           136. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
18 Adriatico reallege answers to paragraphs 1-135.

19           137. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
20 Adriatico deny the allegations contained in paragraph 137.

21           138. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
22 Adriatico deny the allegations contained in paragraph 138.

23           139. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
24 Adriatico deny the allegations contained in paragraph 139.

1           140. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
2 Adriatico deny the allegations contained in paragraph 140.

3           141. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
4 Adriatico deny the allegations contained in paragraph 141.

5           142. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
6 Adriatico deny the allegations contained in paragraph. 142.

7           143. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
8 Adriatico deny the allegations contained in paragraph 143

9           144. Defendants Micronesia Woodcraft Enterprises, Inc. and  
10 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
11 of the allegations contained in paragraph 144 and therefore deny the  
12 allegations.  
13

14           145. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
15 Adriatico reallege answers to paragraphs 1-144

16           146. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
17 Adriatico admit in part that Plaintiff sold its dolls to the public using the  
18 name "BoJoBo Wishing Dolls". Defendants deny that the use of such name  
19 was in anyway a protectible trademark.  
20

21           147. Defendants Micronesia Woodcraft Enterprises, Inc. and  
22 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
23 of the allegations contained in paragraph 147 and therefore deny the  
24 allegations.  
25

26           148. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
27 Adriatico deny the allegations contained in paragraph 148.  
28

1           149. Defendants Micronesia Woodcraft Enterprises, Inc. and  
2 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
3 of the allegations contained in paragraph 149 and therefore deny the  
4 allegations.

5           150. Defendants Micronesia Woodcraft Enterprises, Inc. and  
6 Tirso J. Adriatico lack sufficient information to form a belief as to the truth  
7 of the allegations contained in paragraph 150 and therefore deny the  
8 allegations.

9           151. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
10 Adriatico deny the allegations contained in paragraph 151.

11           152. Defendants Micronesia Woodcraft Ent., Inc. and Tirso J.  
12 Adriatico deny the allegations contained in paragraph 152.

13  
14  
15  
16                           **AFFIRMATIVE DEFENSES**

17           Defendants assert the following affirmative defenses:

- 18           1. Plaintiff failed to state a claim upon which relief may be  
19 granted.
- 20           2. Lack of subject matter jurisdiction.
- 21           3. Plaintiff claimed that trademarks are not protectible  
22 because they are descriptive of the products and do not  
23 state the origin or manufacturer of the products.
- 24           4. Prior use of alleged trademark and trade dress by party  
25 other than the Plaintiff.
- 26
- 27
- 28



1           5. Plaintiff's alleged trademark and trade dress are  
2           unregistered with the U.S. Patent and Trademark Office.

3           6. Estoppel.

4           7. Laches.

5           8. Acquiescence.

6           9. Waiver.

7           10. Plaintiff's alleged trade dress is aesthetically functional.

8           11. Plaintiff's alleged trade dress is not distinctive and have  
9           not acquired secondary meaning.

10          12. Plaintiff's alleged trademarks have been in the public  
11          domain that they are now generic terms.

12          13. Failure to join indispensable parties.

13          14. Failure to prosecute action in the name of the real party  
14          and interest.

15  
16  
17  
18                           **DEMAND FOR JURY TRIAL**

19           Defendants hereby request that all issues are resolved at a trial  
20           by jury.

21  
22                           **COUNTERCLAIM**

23           COMES NOW Defendants Micronesia Woodcraft Ent., Inc. and  
24           Tirso J. Adriatico (hereinafter "counterclaimants") hereby allege the following  
25           counterclaim:  
26  
27  
28

1                   1.     Jurisdiction is vested in this court pursuant to 28 U.S.C §  
2 1338 (b);

3                   2.     Venue is properly vested in this Court pursuant to 28 U.S.C  
4 § 1391 (b);  
5

6  
7                                   **FACTUAL BACKGROUND**

8                   3.     Counterclaimant Micronesia Woodcraft Ent., Inc. is a  
9 CNMI domestic corporation and is licensed to do business in the CNMI;

10                  4.     Counterclaimant Tirso Adriatico is a citizen of the  
11 Philippines and a resident of the CNMI. Counterclaimant Adriatico is an  
12 officer, director and shareholder in Micronesia Woodcraft Ent., Inc.;

13                  5.     Upon information and belief, Plaintiff/counter-defendant  
14 Rodrigo M. Capati is a citizen of the Philippines, is a resident of the CNMI,  
15 and is currently conducting business under the fictitious name Saipan  
16 Handicraft;  
17

18                  6.     Upon information and belief, Plaintiffcounter-defendant  
19 Adela S. Capati is a citizen of the Philippines, is a resident of the CNMI, and  
20 is currently conducting business under the fictitious name Saipan Handicraft;  
21

22                  7.     Upon information and belief, Plaintiff/counter-defendant  
23 Rodel S. Capati is a citizen of the Philippines, is a resident of the CNMI, and  
24 is currently conducting business under the fictitious name Saipan Handicraft;  
25

26                  9.     Counterclaimants Micronesia Woodcraft Ent., Inc. and  
27 Tirso J. Adriatico incorporate paragraphs 1 through 152 as alleged by  
28 Plaintiffs/counter-defendant complaint;

1           10. Upon information and belief, during the time that Gus  
2 Camacho was producing "Bo Jo Bo Wishing Dolls" and was utilizing the  
3 "Legend of the Bo Jo Bo Wishing Doll", another party Mr. Herman Santos,  
4 was also producing "Bo Jo Bo Wishing Dolls" and using the "Legend of the  
5 Bo Jo Bo Wishing Doll";  
6

7           11. Upon information and belief, use of the name "Bo Jo Bo  
8 Wishing Dolls" and the "Legend of the Bo Jo Bo Wishing Doll" was  
9 continually in use and was used in commerce by other parties prior to and  
10 during the time that Plaintiffs were also utilizing the claimed marks;  
11

12           12. On or about 1984, Plaintiffs/counter-defendant began  
13 manufacturing and producing dolls, using the name "Bo Jo Bo Wishing Doll"  
14 and the accompanying story "Legend of the Bo Jo Bo Wishing Doll";  
15

16           13. On or about 1994, Counterclaimants also began producing  
17 the dolls and using name "Bo Jo Bo Wishing Doll" and also utilized the story  
18 "Legend of the Bo Jo Bo Wishing Doll";  
19

20           14. The first version of Counterclaimants' doll was similar to  
21 Plaintiffs'/counter-defendant doll and Counterclaimants had utilized a skirt as  
22 part of the dress of the doll;  
23

24           15. From 1996 forward, Counterclaimants doll evolved with  
25 additions being made to the dress of the dolls in the form of hair, a hat, and a  
26 painting of mouth. These changes were made in conformance to the requests  
27 of buyers;  
28

          16. Counterclaimants Micronesia Woodcraft enterprises, Inc.  
and Tirso J. Adriatico have actively and continuously produced dolls using

1 the name "Bo Jo Bo Wishing Dolls" and the "Legend of the Bo Jo Bo Wishing  
2 Doll", noting that the doll and the names associated with the dolls were being  
3 used by a number of parties other than Plaintiffs/counter-defendant;

4           17. The terms "Bo Jo Bo Wishing Doll" and "Legend of the Bo  
5 Jo Bo Wishing Doll" have been in the public domain for over 40 years and no  
6 party, except Plaintiffs, has ever asserted that these terms are protectible  
7 trademarks;  
8

9           18. The addition of trade dress features to Counterclaimants'  
10 dolls were made to enhance the appearance of the dolls and were also made at  
11 the request of Defendants' customers.  
12

### 13 **FIRST CAUSE OF ACTION**

#### 14 **Declaratory Relief**

15           19. Counterclaimants Micronesia Woodcraft Enterprises, Inc.  
16 and Tirso J. Adriatico reincorporate and reallege the assertions contained in  
17 paragraphs 1-18 of the counterclaim;

18           20. Plaintiffs/counter-defendant assert that they have a  
19 protectible trademark in the use of the terms "Bo Jo Bo Wishing Doll" and  
20 Legend of the Bo Jo Bo Wishing Doll";  
21

22           21. In addition, Plaintiffs/counter-defendant seek trade dress  
23 protection for the use of certain features on these dolls, to include the use of  
24 hair, use of a hat, use of bundled colored skirts, and the use of a mouth on the  
25 dolls;  
26

27           22. Plaintiffs/counterdefendant have filed for trademark  
28 registration for the term " Bo Jo Bo Wishing Doll" and "Legend of the Bo Jo

1 Bo Wishing Doll” and have also filed for registration of their alleged trade  
2 dress;

3           23. The alleged trademarks of “Bo Jo Bo Wishing Doll” and  
4 “Legend of Bo Jo Bo Wishing Doll” are not protectible trademarks because  
5 these terms are not only “generic” by virtue of their use in the public domain,  
6 but these terms are only “descriptive” in nature and does not identify  
7 Plaintiffs as the origin or manufacturer;  
8

9           24. Plaintiffs/counter-defendant’s assertion of trade dress  
10 protection seeks to protect the use of certain features on Plaintiffs/counter-  
11 defendant’s dolls that are wholly aesthetically functional;  
12

13           25. In the event that the United States Patent and Trademark  
14 Office should render a decision approving the registration of  
15 Plaintiffs/counter-defendant trademark of “Bo Jo Bo Wishing Doll” and  
16 “Legend of the Bo Jo Bo Wishing Doll”, prior to resolution of this matter  
17 with this Court, Counterclaimants seek declaratory relief holding that  
18 Plaintiffs/counter-defendant alleged trademarks are not subject to protection  
19 under the Lanham Act because these alleged marks are generic and  
20 descriptive;  
21

22           26. In the event that the United States Patent and Trademark  
23 Office should render a decision approving the registration of  
24 Plaintiffs’/counter-defendant trade dress, prior to the resolution of this  
25 matter with Court, Counterclaimants seek declaratory relief holding that the  
26 Plaintiffs’/counter-defendants’ alleged trade dress are not subject to  
27  
28

1 protection under the Lanham Act because the alleged trade dress is wholly  
2 aesthetically functional;  
3

4  
5 **SECOND CAUSE OF ACTION**

6 **Tortious Interference with Contracts**

7 27. Counterclaimants reincorporate and reallege the assertions  
8 contained in paragraphs 1-26 of the counterclaim;

9 28. As a result of the unjustified assertion of trademark and  
10 trade dress protection, Plaintiffs/counter-defendants, through their agents,  
11 assigns, or employees, with full knowledge of existing contracts between  
12 Counterclaimants and a number of different buyers to include Duty Free  
13 Shoppers, Mama's Store, and Joeten Department Store, intending to harass,  
14 annoy, persecute, injure, destroy, and interfere with Counterclaimants'  
15 business, wrongfully, intentionally, and maliciously persuaded  
16 Counterclaimants' buyers to repudiate their contracts with Counterclaimants  
17 to purchase dolls;  
18

19 29. As part of Plaintiffs'/counter-defendants' malicious  
20 conduct, they have undertaken to sell their own dolls as a replacement of  
21 Counterclaimants' products;  
22

23 30. Counterclaimants' buyers would not have repudiated and  
24 cancelled the agreement to purchase Counterclaimants' products but for the  
25 malicious, fraudulent, and wrongful representations and actions committed by  
26 Plaintiffs/counter-defendants;  
27  
28

1           31. Counterclaimants have been damaged in the form of lost  
2 sales in an amount to be proven at trial;

3           32. Counterclaimants seek injunctive relief against  
4 Plaintiffs/counter-defendants to prevent any continued action to interfere with  
5 Counterclaimants' business relations with existing or future buyers of its  
6 products.  
7

8  
9                                   **PRAYER FOR RELIEF**

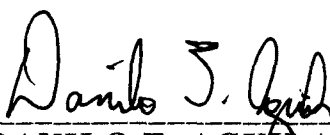
10           WHEREFORE, Defendants pray for the following relief as  
11 follows:  
12

- 13           1. That Plaintiff take nothing by way of their complaints;
- 14           2. For an order declaring that Plaintiffs' claims for trademark  
15 and trade dress protection are invalid;
- 16           3. In the event the U.S. Trade and Patent Office approves  
17 registration of Plaintiffs trademark and trade dress prior to  
18 resolution of this matter, in addition to an order declaring  
19 the trademarks and trade dress as invalid, the Court issue  
20 another order canceling the registration of the said  
21 trademarks or trade dress;
- 22           4. For an award of damages in favor of Defendants to be  
23 proven at trial;
- 24           5. For an order of injunctive relief against Plaintiff  
25 prohibiting them from actions that would interfere with  
26 Defendants' efforts to sell their products;
- 27           6. For an award of attorney's fees and costs incurred by  
28 Defendants;



1           7.     Such other and further relief that the Court deems just and  
2                 proper.

3  
4     Dated this 12<sup>th</sup> day of May, 2006

5  
6                                   
7                                 \_\_\_\_\_  
8                                 **DANILO T. AGUILAR, F0198**  
9                                 Attorney for Defendants